THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.13171 of 1998
Dated: 05-04-2007

Between:

The Depot Manager, APSRTC Bus Depot,
Falaknuma, Hyderabad.

Petitioner

And

K.N.Rao and another

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.13171 of 1998

ORDER:

1. This writ petition has been instituted by the Depot Manager, APSRTC Bus Depot at Falaknuma, questioning the correctness of the Award passed by the Labour Court- I, Hyderabad, in I.D.No.17 of 1996.

2. The first respondent while conducting Bus No.3448 on route Nandnoor to Charminar was subjected to a check at Stage No.8 at about 1835 hours on 30th May, 1995. The TTIs of the headquarters enforcement squad, Mushirabad have noticed that a particular passenger was alighting the bus at Gudur X Road stage and that passenger was not carrying the ticket. It is found out by the TTIs that that particular passenger had boarded the bus at Kandukur X Road at Stages 9/8 to 8 and that the passenger had tendered only one rupee, which was collected by the first respondent conductor. Since the said passenger had not been issued a ticket, the first respondent had been alleged with the irregularity of having misappropriated one rupee, which was collected from the passenger to whom the ticket was not issued. Consequently, the TTIs have also found that the statistical return insofar as the denomination of Rs.1.50 ps is concerned, as not closed. The first respondent is therefore charged with misconduct of violating the rule of “issue and start” prescribed by the APSRTC. Since the explanation offered by the first respondent was not satisfactory to the charge sheet dated 03-

06-1995, a departmental enquiry proceeded with and based upon the findings recorded there at, he had been inflicted with the punishment of removal from service by order dated 11.12.1995. When appealed against, the appellate authority has rejected the appeal and confirmed the punishment through his orders dated 24-02-1996. In these set of circumstances, the first respondent workman had invoked the jurisdiction of the Labour Court under Section 2-A (2) of the Industrial Disputes Act by instituting I.D.No.17 of 1996. It is relevant to point out at this stage to the explanation offered by the first respondent conductor who was conducting the bus, that one of the passengers by name Anjaiah boarded the bus at Stage No.9/8 and when demanded to tender Rs.1.50 ps being the correct fare for his destination of travel, he pleaded with the first respondent that he had only one rupee with him and offered the same to the conductor. The conductor kept on demanding the passenger to tender the full fare of Rs.1.50 ps or alight the bus. Since there are several passengers in the bus, one of them by name K.Raju volunteered to break the impasse by offering the shortfall of the fare of 0.50 ps on behalf of the passenger Anjaiah. Since the other passenger K.Raju had tendered the balance fare amount, the onward journey of the bus went on and the first respondent conductor has issued the ticket to the person who paid the deficit amount of 0-50 ps. Therefore, the first respondent conductor has disputed the very basis behind the charge sheet and the consequential impugned order. The first respondent conductor had contended that he had collected appropriate and correct fare of Rs.1.50 ps, comprising one rupee collected from Anjaiah and 0.50 ps collected from K.Raju. He had issued the ticket for Rs.1.50 ps denomination to K.Raju who had tendered the balance amount of the fare. Therefore, it is improper for the corporation to allege that he had not issued the ticket in spite of collecting the

fare thereof. It is thus clear that the first respondent conductor had not committed any irregularity, which warrants imposition of major punishment of removal from service. If only the TTIs of the checking party had taken care of collecting the two tickets available with K.Raju, it could have helped them to detect as to whether one of the two tickets is the last one in the series of the tickets of the denomination of Rs.1.50 or not.

3. In the absence of such material, the explanation offered by the first respondent as to how he had collected the correct and appropriate fare of Rs.1.50 ps albeit one rupee from Anjaiah and 0-50ps from K.Raju could not have been tested. In the absence of such material, the explanation of the first respondent appears to be plausible and reasonable. Therefore, in the absence of any other material to discredit this explanation, no finding would have been recorded that the first respondent is guilty of having not issued the ticket to the passenger in question namely Anajaiah. But however, since the first respondent had not closed the statistical return at the time of check, the Tribunal had exercised the discretion conferred upon it under Section 11-A of the Industrial Disputes Act and ordered for payment of back wages only to the extent of 25% thus making the first respondent also feel certain amount of distress by way of denial of 75% of the back wages. From the record, it is clear that the finding arrived at by the Enquiry Officer that the first respondent had committed cash and ticket irregularities is not a justifiable finding at all. It would have been a different matter if the TTIs have collected the two tickets of denomination of Rs.1.50 ps available with K.Raju, another passenger and one of them is not the last in the series of tickets for the said denomination. Therefore, the finding of guilt recorded by the Enquiry Officer, which was accepted and made the basis for imposition of

punishment by the Disciplinary and Appellate Authorities is not sustainable one. The exercise of discretion indulged in by the Labour Court-1 by ordering for reinstatement of the first respondent in to service and simultaneously denying him 75% of the back wages has in fact struck a fine balance between the interests of corporation on the one hand and the erring employee on the other, to the extent of the irregularity of not closing the statistical return by him is concerned. I therefore, find no justification whatsoever to upset this well merited consideration reflected in the Award passed by the Labour Court and consequently, I dismiss this writ petition, but however, without costs.

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NOOTY RAMAMAMOHANA RAO,J

05-04-2007

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